

110TH CONGRESS
1ST SESSION

H. R. 2939

To prohibit the commercial harvesting of Atlantic blackfish in the coastal waters and the exclusive economic zone, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2007

Mr. PALLONE introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To prohibit the commercial harvesting of Atlantic blackfish in the coastal waters and the exclusive economic zone, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Atlantic Blackfish
5 Conservation Act”.

6 **SEC. 2. PROHIBITION ON COMMERCIAL HARVESTING OF**
7 **ATLANTIC BLACKFISH.**

8 (a) PROHIBITION.—It is unlawful to engage in, or to
9 attempt to engage in—

1 (1) the commercial harvesting of Atlantic
2 blackfish, popularly known as tautog, in the coastal
3 waters or in the exclusive economic zone established
4 by Proclamation Numbered 5030, dated March 10,
5 1983; or

6 (2) the sale of Atlantic blackfish taken in viola-
7 tion of paragraph (1) or any part thereof.

8 (b) PENALTIES.—

9 (1) CIVIL PENALTY.—Any person who is found
10 by the Secretary of Commerce after notice and an
11 opportunity for a hearing in accordance with section
12 554 of title 5, United States Code, to have com-
13 mitted an act that is unlawful under subsection (a),
14 is liable to the United States for a civil penalty. The
15 amount of the civil penalty may not exceed \$1,000
16 for each violation. Each day of continuing violation
17 constitutes a separate offense. The amount of the
18 civil penalty shall be assessed by the Secretary of
19 Commerce by written notice. In determining the
20 amount of the penalty, the Secretary of Commerce
21 shall take into account the nature, circumstances,
22 extent, and gravity of the prohibited act committed
23 and, with respect to the violator, the degree of culpa-
24 bility, any history of prior violations, ability to pay,
25 and such other matters as justice may require.

1 (2) REVIEW; FAILURE TO PAY, COMPROMISE,
2 AND SUBPOENAS.—Subsections (b) through (e) of
3 section 308 of the Magnuson-Stevens Fishery Con-
4 servation and Management Act (16 U.S.C. 1858(b)–
5 (e); relating to review of civil penalties; acting upon
6 failure to pay assessment, compromise, and sub-
7 poenas) shall apply to penalties assessed under para-
8 graph (1) to the same extent and in the same man-
9 ner as if those penalties were assessed under sub-
10 section (a) of such section 308.

11 (c) CIVIL FORFEITURES.—

12 (1) IN GENERAL.—Any vessel (including its
13 gear, equipment, appurtenances, stores, and cargo)
14 used, and any fish (or the fair market value thereof)
15 taken or retained, in any manner, in connection
16 with, or the result of, the commission of any act that
17 is unlawful under subsection (a), is subject to for-
18 feiture to the United States. All or part of the vessel
19 may, and all such fish (or the fair market value
20 thereof) shall, be forfeited to the United States
21 under a civil proceeding described in paragraph (2).
22 The district courts of the United States have juris-
23 diction over proceedings under this subsection.

24 (2) JUDGMENT, PROCEDURE, AND REBUTTABLE
25 PRESUMPTIONS.—Subsections (c) through (e) of sec-

1 tion 310 of the Magnuson-Stevens Fishery Con-
2 servation and Management Act (16 U.S.C. 1860(c)–
3 (e); relating to judgment, procedure, and rebuttable
4 presumptions) shall apply with respect to pro-
5 ceedings for forfeiture commenced under this sub-
6 section to the same extent and in the same manner
7 as if the proceeding were commenced under sub-
8 section (a) of such section 310.

9 **SEC. 3. CONSEQUENTIAL EFFECTS ON EXISTING LAW.**

10 The Atlantic States Marine Fisheries Commission
11 shall promptly take action to amend the Interstate Fish-
12 eries Management Plan for Atlantic blackfish, including
13 addenda thereto as appropriate, to take into account the
14 prohibition established under section 2.

15 **SEC. 4. DEFINITIONS.**

16 As used in this Act:

17 (1) COASTAL STATE.—The term “coastal
18 State” means—

19 (A) Pennsylvania and each State of the
20 United States bordering on the Atlantic Ocean
21 north of the State of South Carolina;

22 (B) the District of Columbia; and

23 (C) the Potomac River Fisheries Commis-
24 sion established by the Potomac River Compact
25 of 1958.

1 (2) COASTAL WATERS.—The term “coastal wa-
2 ters” means—

3 (A) for each coastal State referred to in
4 paragraph (1)(A)—

5 (i) all waters, whether salt or fresh, of
6 the coastal State shoreward of the baseline
7 from which the territorial sea of the
8 United States is measured; and

9 (ii) the waters of the coastal State
10 seaward from the baseline referred to in
11 clause (i) to the inner boundary of the ex-
12 clusive economic zone;

13 (B) for the District of Columbia, those wa-
14 ters within its jurisdiction; and

15 (C) for the Potomac River Fisheries Com-
16 mission, those waters of the Potomac River
17 within the boundaries established by the Poto-
18 mac River Compact of 1958.

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